

# **SOCIAL SECURITY LAWS**

of the

**State of Washington**

**CLARENCE D. MARTIN, Governor**

## **LAWS OF 1937**

- Chapter 111, Department of Social Security
- Chapter 180, Welfare Code—Public Assistance
- Chapter 114, Aid to Dependent Children—Child Welfare Services—Services to Crippled Children
- Chapter 132, Aid for the Blind
- Chapter 162, Unemployment Compensation
- Chapter 182, Laws of 1935, as amended by Chapter 156, Laws of 1937, Old Age Assistance
- Chapter 172, Laws of 1933, as amended by Sec. 8-(1) of Chap. 176, Laws of 1935, and Sec. 10 of Chap. 111, Laws of 1937, Approval and Supervision of Child Caring Agencies and Foster Homes

**April 1, 1937**

Compiled by

**STATE DEPARTMENT OF SOCIAL SECURITY**

Charles F. Ernst, Director

OLYMPIA  
STATE PRINTING PLANT  
1937

HD7091  
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1937



AMERICAN FOUNDATION  
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## FOREWORD

A compilation of social security legislation as submitted by Governor Clarence D. Martin and enacted by the 25th Session (1937) of the Washington State Legislature has been prepared for use by those interested in the program which will grow out of such legislation. Briefly, the objectives are:

Chapter 111, 1937, creates the Department of Social Security with its six divisions, and abolishes the State Department of Public Welfare.

Chapter 180 establishes a new public welfare code for the State of Washington, which provides a coordinated Federal, state and county public assistance program calling for state supervision and county administration, enabling all counties to assume partial financial responsibility through an equalization plan, brings administration close to the beneficiaries, establishes uniform standards of care, provides a merit system for engaging personnel, substitutes a modern concept of public assistance for an out-moded attitude of "poor relief to paupers;" provides for county and state advisory committees, and for a program of prevention, as well as assistance for immediate needs.

Chapter 114 reestablishes the aid-to-children program, absorbs and replaces the mother's pension law (Sections 9993 to 9998, inclusive, Remington's Revised Statutes).

Chapter 172, Laws of 1933, provides the authority under which the Department of Social Security shall license and inspect child caring agencies.

Chapter 132 repeals the county blind pension act of 1933 and 1935 and establishes a new act that provides for programs of prevention, vocational aid and training, home teaching, and financial aid for needy blind.

Chapter 182, Session Laws of 1935, is included in this compilation, together with the amendments found in Chapter 156, Session Laws of 1937 (old age assistance).

Chapter 162 sets up the new unemployment compensation administration within the Department of Social Security and provides employment services.


This new program enacted by the Legislature and signed by the Governor provides a broad basis for all phases of social security and will enable counties, state and Federal governments cooperating to administer a new and better type of public assistance. Through these laws new emphasis and new importance can be given to the preventive and rehabilitation phases of general assistance to the end that the causes of dependency can be diminished if not eventually removed.

CHARLES F. ERNST,  
*Director Department of Social Security.*





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## CHAPTER 111.

[S. B. 150]

### DEPARTMENT OF SOCIAL SECURITY.

AN ACT creating the state department of social security and several divisions thereof, providing for the appointment of officers to administer such department and divisions and prescribing their powers and duties, abolishing the department of public welfare and divisions thereof, providing for the transfer of property and business of such department to the department of social security and declaring that the act shall take effect April 1, 1937.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. There is hereby created a department of the state government which shall be known as the department of social security. The chief executive officer thereof, who shall be designated the director of social security, shall be appointed by the governor, with the consent of the Senate, and shall hold office at the pleasure of the governor. If the Senate be not in session when this act takes effect or if a vacancy occur while the Senate is not in session, the governor shall make a temporary appointment until the next meeting of the Senate, when he shall present to the Senate his nomination for the office.

SEC. 2. The department of social security shall be organized into and consist of six divisions to be designated, respectively, (1) the division of public assistance, (2) the division of old-age pensions, (3) the division of unemployment compensation, (4) the division of employment service, (5) the division for children and, (6) the division for the blind.

SEC. 3. The director of social security shall have general charge and supervision of the department of social security and shall have power to employ such clerical and other office personnel as may be necessary for the general administration of the department.

SEC. 4. The director of social security shall appoint and deputize six assistant directors to be designated, respectively, the supervisor of public assistance, the supervisor of old-age pensions, the supervisor of unemployment compensation, the supervisor of employment service, the supervisor of children and the supervisor of the blind, who shall have charge and supervision, respectively, of the division of public assistance, the division of old-age pensions, the division of unemployment compensation, the division of employment service, the division for children and the division for the blind. Each such assistant director shall have power, with the approval of the director of social security, to appoint and employ such assistants and clerical and other office personnel as may be necessary to carry on the work of his division.

SEC. 5. The director of social security shall have power with the approval of the governor, to make such rules and regulations as may be necessary to carry out the powers and duties of his department.

SEC. 6. The director of social security shall have the power and it shall be his duty, through and by means of the division of public assistance:

(1) To exercise all the powers and perform all the duties now vested in, and required to be performed by, the division of relief of the department of

public welfare and to exercise all the powers and perform all the duties now exercised and performed by the department of public welfare, or which may hereafter be conferred, in respect to the administration of general public assistance, including assistance to persons who are unemployed, sick, or indigent.

(2) To exercise such other powers and perform such other duties as may be prescribed by law.

SEC. 7. The director of social security shall have the power and it shall be his duty, through and by means of the division of old-age pensions:

(1) To exercise all the powers and perform all the duties now vested in, and required to be performed by, the division of social security of the department of public welfare in respect to the administration of old-age assistance.

(2) To exercise such other powers and perform such other duties as may be prescribed by law.

SEC. 8. The director of social security shall have the power and it shall be his duty, through and by means of the division of unemployment compensation:

(1) To exercise all the powers and perform all the duties which may by law be vested in, and required to be performed by the State of Washington or any officer or agency thereof, in respect to the administration of unemployment compensation.

(2) To exercise such other powers and perform such other duties as may be prescribed by law.

SEC. 9. The director of social security shall have the power and it shall be his duty, through and by means of the division of employment service:

(1) To exercise all the powers and perform all the duties which may by law be vested in, and required to be performed by the State of Washington or any officer or agency thereof, in respect to the administration of the Washington state employment service.

(2) To exercise such other powers and perform such other duties as may be prescribed by law.

SEC. 10. The director of social security shall have the power and it shall be his duty, through and by means of the division for children:

(1) To exercise all the powers and perform all the duties now vested in, and required to be performed by, the division of child welfare of the department of public welfare.

(2) To exercise such other powers and perform such other duties as may be prescribed by law.

SEC. 11. The director of social security shall have the power and it shall be his duty, through and by means of the division for the blind:

(1) To exercise all the powers and perform all the duties now exercised and performed by the department of public welfare, or which may hereafter be conferred, in respect to the administration of assistance, pecuniary or otherwise, to blind persons.

(2) To exercise such other powers and perform such other duties as may be prescribed by law.

SEC. 12. The director of social security shall be the responsible state officer for the administration of, and the disbursement of all funds which



may be received by the state in connection with, old-age assistance, unemployment compensation, the Washington state employment service, aid to dependent children, aid to the blind, services for crippled children, child-welfare services, vocational rehabilitation, and all other matters included in the Federal social security act approved August 14, 1935, or as the same may be amended, excepting such as are required to be administered by the department of education or the state board for vocational education and excepting such funds administered and disbursed in connection with public health services such as communicable disease control, maternal and child health, sanitation and vital statistics services. He shall make such reports and render such accounting as may be required by the Federal officer, board or bureau having authority in the premises.

SEC. 13. This act is necessary for the immediate support of the state government and its existing public institutions and shall take effect April 1, 1937, on which date all powers heretofore exercised and duties heretofore performed by the department of public welfare, through and by means of its various divisions, shall devolve upon the department of social security and the divisions thereof created by this act. The department of public welfare, together with all divisions thereof, is hereby abolished, but such abolishment shall not in any way affect the powers conferred or duties required by the statutes whereby such department and divisions were created; nor shall such abolishment affect the validity of any act performed before April 1, 1937. The incumbents of the department and divisions abolished by this act may continue to hold office and perform any act required of them by law until such time after April 1, 1937, as the department of social security and its respective divisions are organized and the officers thereof are duly appointed and qualified.

SEC. 14. Upon the organization of the department and divisions created by this act, and the appointment and qualification of officers thereof, all funds, books, papers, documents, records, data, files, and all other equipment and property belonging to the department and divisions abolished by this act, together with pending business pertaining thereto, shall be delivered and surrendered to the department of social security and the appropriate division thereof. If any question shall arise as to the proper disposition of such property or business, the matter shall be referred to the governor for determination.

SEC. 15. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Passed the Senate March 1, 1937.

Passed the House March 8, 1937.

Approved by the Governor March 13, 1937.

## CHAPTER 180.

[S. B. 149.]

## SOCIAL SECURITY: PUBLIC ASSISTANCE.

AN ACT providing for general public assistance for the relief of the poor, aged, sick, dependent, infirm, blind, or others who are handicapped individuals and cripples; creating a single administrative unit; declaring the public policy of the state; defining the powers and duties of the Department of Social Security in relation thereto and providing for the administration thereof through Boards of County Commissioners under the supervision of the State Department of Social Security; providing for state and county advisory committees; making an appropriation and repealing certain acts in conflict therewith and declaring that this act shall take effect April 1, 1937, and declaring an emergency.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. *Preamble.* Public policy declares with increasing frequency and firmness that the equalization of opportunity for more abundant living and the necessary care of the handicapped and underprivileged incident thereto is a public responsibility of so great a magnitude as to deserve and receive the undivided attention of all branches of government; Federal, state and county. It is evidence of this public mandate that the Congress of the United States in August, 1935, passed the National Social Security Act, defining not only the terms under which the government of the United States would meet its public assistance obligations, but also the conditions under which it would extend its financial support to other governmental agencies acting in the various public assistance fields defined in the national act. Among the provisions of the national enactment was an outline under which the several states might integrate their public assistance programs into a uniform, nation-wide administration thereby establishing a more equitable distribution of assistance and assuring a more uniform administration of all phases of social security. The State of Washington has sought continuously to fulfill its complete responsibility to its people through compliance with all social security legislation.

So effective has the integration of social security activities by the Federal government proved to be that we now declare the advisability of extending similar cooperative relationships into the political subdivisions of the state itself. The creation of such relationships under the present statutes is hampered by legal impediments and by lack of necessary authorizations. It is to remove those restrictions and to establish a single administrative agency which will preserve local autonomy in its administration yet retain the state-wide supervision necessary to equity, uniformity, and the adherence to rules and regulations of the Federal government that we do create, define, and establish the public assistance administration hereinafter provided.

SEC. 2. "Department," wherever it appears in this act, means State Department of Social Security. "Director," wherever it appears in this act, means the Director of the State Department of Social Security. "Administrative Board," means the Board of County Commissioners in each county in the state, hereinafter known in this act, as the "Board." "Administrator" means the person designated to administer public assistance in each respective county. "Public Assistance" means Federal, state and county aid for the



assistance of certain individuals of the state as set forth in this act. "Work Relief" means wages paid by a municipal corporation to persons, who are unemployed or whose employment is inadequate to provide the necessities of life, and/or their dependents, from money specifically appropriated or contributed for that purpose, for the performance of services or labor connected with work undertaken by such corporation independent of work under a contract or for which an annual appropriation has been made. "Direct Relief" means a cash payment or voucher to meet the cost of shelter, fuel, food, clothing, water, light, necessary household supplies, medicine, medical supplies and medical attendance, or any other form of materials or services furnished to persons or their dependents.

SEC. 3. Public assistance in every form now being administered and in such forms as may hereafter be defined as a public charge is hereby declared and is the several and joint responsibility of the State of Washington and the political subdivisions thereof, subject to such restrictions and limitations as are hereinafter provided: *Provided, however,* Nothing contained in this act shall affect, repeal, modify, apply to or disturb any of the provisions of title 74<sup>①</sup> of Remington's Revised Statutes of the State of Washington, as amended.

SEC. 4. Public assistance for the purpose of this act shall include the specific categories listed in the Federal Social Security Act such as aid to dependent children in their own homes, services to crippled children, child welfare services, aid for needy individuals who are blind, old age assistance; care of persons in need because of unemployment, physical disability or for any other causes; such other public health, medical and welfare activities as are now being performed by the respective Boards of County Commissioners and by the department on behalf of persons who are in need, including: Aid to dependent children away from their own homes, medical care and hospitalization, also those activities being performed in cooperation with the Federal government, including purchase and distribution of surplus commodities for the Federal Department of Agriculture; certification of persons for: (a) Civilian Conservation Corps, (b) Works Progress Administration, (c) Resettlement Administration; and care of homeless unattached and non-resident families and individuals; and vocational guidance, vocational education, work relief and placement services for young people in cooperation with the National Youth Administration or any other Federal agency engaged in youth activities. Nothing herein contained shall repeal or modify chapter 139 of the Session Laws of 1931.<sup>②</sup>

SEC. 5. Administration of public assistance under this act shall conform with such specific acts as have been enacted by the legislature and the Congress of the United States with respect to public assistance for children, for needy blind, for needy aged, and others including the allocation of Federal grants in aid to states whose plans for conducting such services are approved by the Federal government and shall conform with the laws of the State of Washington, and such rules and regulations as are vested in the director of social security in relation to all other public assistance.

① Title 74 of Rem. Rev. Stat. provides for soldiers' and sailors' pensions, relief, etc.

② Chapter 139, Session Laws of 1931, provides that county hospitals with 200 beds or more shall be supervised by boards of six trustees, together with the superintendent.

The technical administration of all public assistance functions shall be vested in persons whose qualifications have been certified in manner hereinafter provided.

SEC. 6. It shall be the duty of, and the State Department of Social Security is hereby empowered to serve as the single state agency in the administration of all public assistance programs originating under the jurisdiction of the Federal government, and to exercise such supervision and to promulgate and enforce such rules and regulations as are necessary to assure full local compliance with the terms of Federal grants.

It shall be the duty of, and the State Department of Social Security is hereby empowered to fix state-wide, uniform standards for all public assistance and to effect uniform observance of these standards throughout the state: *Provided*, Such standards shall be in conformity with the Federal Social Security Act and other Federal acts and the laws of the State of Washington pertaining to public assistance.

It shall be the duty of the director of social security with the approval of the State Advisory Committee to establish a merit system which will provide for a fair and equal opportunity for persons to qualify for appointment to positions in the administration of this act. Preference in employment shall be given to persons with local residence in all cases where qualified local persons are available.

It shall be the duty of the director of social security, and he shall be empowered to exercise such other and further supervision of all public assistance activities as may reasonably seem necessary to effective administration of this act.

It shall be the duty of the director of social security to examine and approve quarterly budgets submitted by the respective boards of county commissioners, and to budget such funds as may be deemed necessary to the administration of this act: *Providing*, That the annual budgets for local public health department services shall have first been approved by the state department of health. Such funds may in the discretion of the director of the department be granted either as direct relief or as work relief or for reconstruction and rehabilitation purposes, including the establishment, maintenance and operation of self-help cooperatives, as defined by the Federal Emergency Relief Administration Manuals SH-1 and SH-10, Division of Self-Help Cooperatives: *Provided*, That the expenditures of Federal and state funds for public assistance purposes shall comply with all rules and regulations of any such Federal and state agencies as may have authority in the premises. The director of social security shall make such reports and render such accounting to appropriate Federal authority as may be required in connection with Federal grants, with the further power to do each and everything required by the Federal Social Security Act.

It shall be the duty of the director of social security to fully inform the board of county commissioners of the requirements of the Federal government to require full compliance with such regulations, and in the event of noncompliance, in order to prevent interruption of Federal aid to other counties of the state, to take over the administration of public assistance in the county until compliance has been effected.

The director of social security shall prescribe forms on which regular reports shall be submitted and shall make and issue such other rules and

regulations consistent with the provisions of this act as shall best promote efficiency and effectiveness in the furnishing of public assistance. A certified copy of such rules and regulations shall be filed in the office of the Secretary of State thirty days prior to their effective date.

SEC. 7. It shall be the duty of each board of county commissioners to serve as an administrative board for all matters involving public assistance to their respective counties and as such to prepare quarterly in advance a budget adequate to provide to the inhabitants of that county the benefits and services of public assistance under the provisions of this act: *Provided*, Said budget shall present a statement of funds necessary in each category of public assistance, as established in this act, together with supporting records and data to substantiate such budget and shall certify the amount of county funds available for such purpose: *Provided, further*, That it shall be the duty of the board of county commissioners to make known publicly the approved quarterly budget for public assistance in their respective counties.

The board of county commissioners shall constitute the single administrative agency in each county through which all the categories of public assistance concerned herein shall be administered, and is hereby empowered to act in such capacity as agents of the State Department of Social Security, subject to such regulations and restrictions as are herein authorized and shall exercise complete jurisdiction within such regulations for state and Federal funds expended for public assistance under this act in the respective counties.

The board of county commissioners shall employ an officer whose title shall be "Administrator" and who shall be chief executive officer for the administration of public assistance in each county: *Provided*, No person shall be eligible for appointment as administrator until he has presented a certificate of eligibility issued by the State Department of Social Security.

SEC. 8. The administrator shall be responsible to the board of county commissioners for proper administration of all public assistance affairs placed in his charge and shall hold office at the pleasure of the board.

The administrator shall employ such assistants as are necessary to make adequate investigations and conduct all other activities incident to his office: *Provided*, No person shall be appointed to any position by said administrator until he or she shall have presented a certificate of eligibility issued by the State Department of Social Security: *Provided, further*, That this requirement shall not apply to the filling of non-executive positions.

The administrator shall grant public assistance only after adequate investigation and certification of need, the amount of assistance to be determined on a budgetary basis and conform with law and shall take into account both the needs and resources of the applicant and his dependents and any or all persons who may be responsible for his care.

The administrator shall keep such records and prepare such reports as the board of county commissioners shall deem necessary to the preparation of quarterly budget estimates and any other data held by the State Department of Social Security as necessary to the administration of the act.

SEC. 9. Two or more counties are hereby authorized, subject to the approval of the State Department of Social Security, to form a joint board



with the power to appoint a single administrator and to execute the functions imposed in this act in the manner provided for a single county.

SEC. 10. There is hereby created a state advisory committee to the Department of Social Security to consist of the state directors of the Department of Health, the Department of Finance, Budget and Business, the Superintendent of Public Instruction, together with a representative of the Superior Court Judges Association and of the Washington State Association of County Commissioners. Such committee shall serve in an advisory relationship to the director in order to integrate as effectively as possible the services rendered under the state and local units for public assistance with services rendered by the other departments of state government, and to find the causes of dependency and to make recommendations looking toward the removal of said causes.

SEC. 11. The various boards of county commissioners shall be the agents of the State Department of Social Security in determining the local causes which lead to the need for public assistance and in performing such activities as will tend to remove those causes.

To assist in this preventive work the board of county commissioners, in cooperation with the department, shall appoint an advisory committee in each county composed of five or more local citizens selected on the basis of their known interest and experience in the fields of public welfare, child welfare, employment, health, and education.

These advisory committees shall make such studies of local conditions in the field of social security as will enable them to make recommendations relative to improvements in general living conditions and in the administration of public assistance to the end that there will be a lessening of the need of public assistance in that county.

The members of the advisory committee shall be chosen by the respective boards of county commissioners and shall serve for two years from the time of their appointment and may be reappointed regularly at the pleasure of the board of county commissioners.

The members of the advisory committee shall serve without pay but shall be reimbursed for actual travel and other expenses involved in carrying out the work of their committee.

The advisory committee shall prepare and submit a budget covering the expenses incident to their studies and other related activities, and the funds necessary for such budget when approved by the board of county commissioners may be considered a proper administrative expense and as such included in the quarterly budgets provided for in section 7 of this act.

SEC. 12. It is hereby provided that any applicant for or recipient of public assistance, as provided in this act, who shall be dissatisfied with the decision on his application for such assistance, may appear before the board of county commissioners in the county in which he resides, relative to said complaint. If such complainant is still dissatisfied, he may appeal to the director, and upon such appeal an opportunity shall be granted for a fair hearing.

If an application is not acted upon by the local administrative unit within a reasonable time after the filing of the application, or is denied or revoked, the applicant may appeal to the department in the manner and form pre-

scribed by the department. The department shall upon receipt of such an appeal give the applicant an opportunity for a hearing. Before such hearing the department may make such additional investigation as it may deem necessary, and shall make such decision as to the granting of assistance and the amount of assistance to be granted the applicant as in its opinion is justified and in conformity with the provisions of this act. Hearings under the provisions of this section, unless appellant shall otherwise stipulate, shall be held in the county in which the appellant resides and shall be conducted by the director of the department of social security, a duly appointed, qualified and acting supervisor thereof, or by an examiner specially appointed by the director for such purpose. Whenever a hearing is conducted by a supervisor or specially appointed examiner, a transcript of the testimony shall be made and included in the record which shall be submitted to the director for his decision.

Any appellant, feeling himself aggrieved by the decision of the director in any case, shall have the right of appeal to the superior court of the county of his legal residence, which appeal shall be taken by notice filed with the clerk of the court and served upon the director within thirty (30) days after the decision of the director.

SEC. 13. Assistance given under this act shall not be transferable or assignable, at law or in equity, and none of the money paid or payable under this act shall be subject to execution, levy, attachment, garnishment or other legal process, or to the operation of any bankruptcy or insolvency law.

SEC. 14. In executing any provisions of this act the department and the boards or any person duly authorized or designated by them may conduct any investigation pertinent to the furtherance of its work. They are hereby authorized to subpoena witnesses, administer oaths, take testimony and compel the production of such papers, books, records, and documents as may be relevant to any such investigation.

SEC. 15. In furthering the purposes of this act, the director, with the approval of the Governor, may accept contributions or gifts in cash or otherwise from persons, corporations, and/or other individuals, such contributions being disbursed in the same manner as the money appropriated for the carrying out of the provisions of this act: *Provided, however,* The donor of such gifts may stipulate the manner in which such gifts shall be expended.

SEC. 16. This act shall apply to every county in the state, and state aid under the provisions of this act and the rules and regulations of the department shall hereafter be available to all counties.

SEC. 17. The board of county commissioners in each of the several counties of the state shall make available for all categories of public assistance the funds which are set forth in their budget for the year 1937, said funds to be expended during the year 1937 in accordance with the provisions of this act.

The board of county commissioners in each of the several counties of the state shall budget and levy a sum equal to three mills against the assessed valuation of said county for public assistance purposes for the year 1938 and subsequent years. The total sum budgeted shall be expended for all categories of public assistance during the year of 1938 and subsequent years in accordance with the provisions of this act.

The board of county commissioners shall be and they are hereby authorized to expend such funds for any category of public assistance, which expenditures shall be made in the manner prescribed by law for disbursement of the county current expense fund, and said commissioners shall also have the power with said funds to reimburse the state for expenditures made for public assistance within their county from state or Federal funds.

SEC. 18. There is hereby appropriated from the general fund for the biennium ending April 1, 1939, the sum of \$43,394,000.00, or as much thereof as may be available and necessary for carrying out the provisions of this act: *Provided*, That no expenditure shall be made herefrom except upon allotments approved by the Governor.

SEC. 19. From and after the first day of May, 1937, the emergency relief fund in the state treasury shall be and is hereby abolished.

All moneys in the state treasury to the credit of the emergency relief fund and all moneys thereafter paid into the state treasury for or to the credit of the emergency relief fund shall be and are hereby transferred to and placed in the general fund.

From and after the first day of May, 1937, all warrants drawn on the emergency relief fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. That from and after the first day of April, 1937, all appropriations made by the twenty-fifth legislature from the emergency relief fund shall be paid out of monies in the general fund.

SEC. 20. If any person or persons receiving or having received any assistance under the provisions of this act, are again gainfully employed or should receive any moneys from any other source, and should said person wish to return to the public assistance fund the amount received as public assistance, any moneys so received shall accrue to the public assistance fund and shall be expended by the director in line with the provisions of this act: *Provided*, That the Federal government shall be entitled to a share of any amounts so received and said one-half of said amounts shall be promptly paid by the state to the United States government.

Any person or persons concealing resources such as cash, banking accounts, savings accounts, cash incomes of any kind, or any other accounts of moneys, shall be liable to the amount of aid rendered him from the public assistance fund, and the department, and/or board, is authorized and directed to recover any such sums in accordance with the laws of the state relative thereto.

SEC. 21. If any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SEC. 22. In order to make it possible for the department and the local administrative units to administer public assistance in harmony with the Federal government, sections nine thousand nine hundred and eighty-one



(9981) to nine thousand nine hundred and eighty-four (9984) inclusive, and sections nine thousand nine hundred and eighty-seven (9987) to nine thousand nine hundred ninety-one (9991) inclusive, Remington's Revised Statutes of the State of Washington are hereby repealed.<sup>①</sup>

SEC. 23. Nothing in this act shall be construed as limiting the powers of the various boards of county commissioners to declare emergencies and to provide revenues necessary thereto.

SEC. 24. This act is necessary for the immediate preservation of the public peace, health and safety and the support of the state government and its existing public institutions and shall take effect April 1, 1937.

Passed the Senate March 1, 1937.

Passed the House March 8, 1937.

Approved by the Governor March 17, 1937.

## CHAPTER 114.

[S. B. 295.]

### AID TO DEPENDENT CHILDREN—CHILD WELFARE SERVICES—SERVICES TO CRIPPLED CHILDREN.

AN ACT relating to and providing for aid to dependent children, child welfare services and services to crippled children as included in the Federal Social Security Act; prescribing the powers and duties of certain state officers in connection therewith; providing for the fund to care for all services herein mentioned; repealing section 9993 to section 9998, inclusive, Remington's Revised Statutes and chapter 110, of the Laws of 1935, and providing when the act shall take effect.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. *Aid to Dependent Children.* For the purpose of this act the term "dependent child" means a child under the age of sixteen (16) years who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandmother, grandfather, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt, in a place of residence maintained by one of [or] more of such relatives as his or their own homes. The terms "aid to dependent children" means money payments with respect to a dependent child or dependent children.

SEC. 2. There is hereby adopted a statewide plan for aid to dependent children: It shall be the duty of the state department of social security, and the department, through and by means of the division for children, is hereby empowered to serve as a single state agency in the administration of this act, and to exercise such supervision and promulgate and enforce such rules and regulations as are necessary to assure full local compliance with the terms of the Federal grants.

SEC. 3. Such aid shall be granted in such amount as will, when added to the income of the family, provide dependent child or children with a reason-

<sup>①</sup> Secs. 9981-9984 and 9987-9991, Rem. Rev. Stat., were the so-called "poor laws" of 1854 under which the counties heretofore administered relief.

able subsistence compatible with decency and health. The amount of aid to be granted in each case shall be determined upon the basis of need and in view of the particular facts and circumstances of each case.

SEC. 4. To be eligible for aid granted under this act, it shall be established to the satisfaction of the department of social security that the parent has been a resident of the state for one year, or that the child of such family has resided in this state for a period of one year immediately preceding application for such aid, or was born within the state within one year immediately preceding the application if his mother has resided in the state for one year immediately preceding his birth.

SEC. 5. The department of social security, through and by means of the division for children, is hereby designated as the responsible agency for the administration of the aid provided by this act, and it is authorized and directed to formulate in detail and administer the plan established by this act in such manner that allotments or grants from the Federal government may be made available for the support of dependent children. The details of such plan shall be formulated in such manner as to meet with the approval of the Federal agencies created or designated to administer Federal aid to states providing for aid to dependent children.

SEC. 6. *Child Welfare Services.* The department of social security, through and by means of the division for children, shall have the power to cooperate with the Federal government, its agencies or instrumentalities in developing, administering and supervising a plan for establishing, extending aid and strengthening services for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent and to receive and expend all funds made available through the department of social security by the Federal government, the state or its political subdivisions for such purposes.

SEC. 7. *Services to Crippled Children.* The department of social security, through and by means of the division for children, shall have the power: To establish and administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling, which shall provide for developing, extending, and improving services for locating such children, and for providing for medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and after care; supervise the administration of those services, included in the program, which are not administered directly by it; extend and improve any such services, including those in existence on the effective date of this act; cooperate with medical, health, nursing, and welfare groups and organizations, and with any agency of the state charged with the administration of laws providing for vocational rehabilitation of physically handicapped children: To cooperate with the Federal government, through its appropriate agency or instrumentality in developing, extending, and improving such services; and receive and expend all funds made available to the department by the Federal government, the state or its political subdivisions or from other sources, for such purposes.

SEC. 8. It is hereby provided that an applicant or recipient of public assistance or services, as provided in this act, who shall be dissatisfied with the

decision on his application for such public assistance or services may appear before the board of county commissioners in the county in which he resides, relative to said complaint. If such complainant is still dissatisfied, he may appeal to the director, and upon such appeal an opportunity shall be granted for a hearing.

SEC. 9. Any person claiming benefit under this act shall file an application with the local administrative board in the county of residence. The local administrative board shall fully establish the facts set forth in the application and any other facts it deems necessary. The department shall have power to issue subpoenas for witnesses, compel their attendance and examine them under oath.

SEC. 10. All aid granted under this act shall be inalienable by any assignment or transfer and shall be exempt from levy or execution under the laws of the state.

SEC. 11. The supervisor of the division for children shall make a detailed report to the director of social security within ninety days after the first of each calendar year showing all appropriations received and how the same have been expended, and covering its activities and accomplishments for the preceding year, and making recommendations therein for the further improvement of any of the provisions of this act.

SEC. 12. The department of social security, through and by means of the division for children, is hereby empowered and authorized to cooperate with the Federal Social Security Board and the United States Children's Bureau in any reasonable manner as may be necessary to qualify for Federal assistance for aid to dependent children, child welfare services and services to crippled children in conformity with the provisions of the Social Security Act; including the making of such reports in such form and containing such information as the Federal government, or the proper agency having authority in the premises, may from time to time require, and comply with such provisions as the Federal government may from time to time find necessary: *Provided, further,* Nothing in this act shall be construed as authorizing any state official, agent, or representative, in carrying out any of the provisions of this act, to take charge of any child over the objection of either of the parents of such child, or of the person standing *in loco parentis* to such child.

SEC. 13. The director of social security shall be empowered to promulgate such rules and regulations as shall be necessary to effectuate and carry out the purposes of this act.

SEC. 14. The funds necessary to carry out the provisions of this act shall be made available from the revenues provided by the Federal, state and county governments for public assistance.

SEC. 15. The department of social security, through and by means of the division for children, is authorized to receive moneys by gifts or bequests and expend the same for any of the objects and purposes set forth under this act; and shall include in the annual report to the director of social security a statement of the moneys so received and expended.



SEC. 16. Sections 9993 to 9998, inclusive, of Remington's Revised Statutes<sup>①</sup> and chapter 110, of the Laws of 1935, and all acts or parts of acts in conflict herewith are hereby repealed.

SEC. 17. If any section, clause or part of this act shall for any reason be adjudged invalid or unconstitutional, such adjudication shall not affect the remaining portions of the act.

SEC. 18. This act is necessary for the immediate preservation of the public peace, health and safety and the support of the state government and its existing public institutions and shall take effect April 1, 1937.

Passed the Senate March 2, 1937.

Passed the House March 8, 1937.

Approved by the Governor March 13, 1937.

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## CHAPTER 132.

[S. B. 151.]

### SOCIAL SECURITY—DIVISION FOR THE BLIND.

AN Act establishing within the Department of Social Security a division for improving the condition of the blind and for the prevention of blindness and prescribing the power and duties thereof; making an appropriation therefor; repealing certain acts and parts of acts in conflict herewith and declaring that this act shall take effect April 1, 1937.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. *Creation of a Division for the Blind.* There is hereby created within the Department of Social Security a division to be known as the Division for the Blind, which shall be charged with the duty of promoting, in the manner hereinafter set forth, the welfare of blind persons, persons with seriously impaired vision, and persons suffering from conditions which might lead to blindness.

SEC. 2. *Employees of Division.* The Director shall appoint and deputize an Assistant Director to be known as the Supervisor of the Division for the Blind, who shall have charge and supervision of the Division and have power, with the approval of the Director of Social Security to appoint and employ such assistants and personnel as may be necessary to carry on the work of the Division. Such assistants and personnel shall be selected upon the basis of their experience and qualifications in the field of work among the blind, and to the fullest extent possible shall be residents of the State of Washington at the time of their selection. In selecting personnel, blind persons who are qualified and available, shall be employed wherever practicable.

SEC. 3. *Prevention of Blindness.* In cooperation with the Department of Public Health, there shall be established and maintained such service as

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<sup>①</sup> Secs. 9993-9998, inclusive, of Rem. Rev. Stat., made provision for the granting of Mothers' Pensions.

is needed looking toward the prevention of blindness, the purpose of which shall be to determine the causes of blindness, and to inaugurate and cooperate in any preventive measures for the State of Washington as may appear practicable. Whenever a blind or partially blind person can be benefited by medical or surgical treatment for which he is unable to pay, arrangement shall be made for an examination, with the consent of the individual, and for the necessary treatment by an ophthalmologist or physician skilled in the diseases of the eye.

SEC. 4. *Vocational Aid and Training.* The Department of Social Security through the Division for the Blind may maintain or cause to be maintained, in cooperation with the Division of Vocational Rehabilitation of the State Board of Vocational Education, services for vocational aid and training the objects of which shall be:

- (a) To aid blind persons in finding suitable remunerative employment.
- (b) To teach blind persons trades or occupations which may be followed in their homes and to assist them in whatever manner may seem advisable in disposing of the products of their home industries.
- (c) To establish and/or maintain one or more training schools and/or workshops to teach blind persons trades or occupations when such training is feasible and will contribute to the efficiency and/or self-support of such blind person and to devise means for the sale and distribution of the products thereof.
- (d) To provide living maintenance to blind persons during their training or instruction in any suitable occupation, whenever the training or instruction in question will contribute to the self-support of such blind persons. When special educational opportunities cannot be had in this state, they may be arranged for, outside the state.
- (e) To aid individual blind persons or groups of blind persons to become self-supporting by furnishing materials or machinery to them, and also
- (f) To provide home visitation and home teaching of subjects which will assist blind persons in the ease and enjoyment of daily living.

SEC. 5. *Accounts and Audit for Industries.* There shall be separate books of accounts for the industries of the Division for the Blind, and all moneys received from the sale of any products made at its training schools and/or work shops or from the sale of products made under its supervision to which it has title shall be paid into the State Treasury to be considered a part of the appropriation.

SEC. 6. *Supervision.* It shall be the duty of the Department of Social Security, through the Division for the Blind, to serve as the state supervising agency in the administration of assistance as provided in this act.

SEC. 7. *Administration of Assistance.* County Commissioners acting as a local administrative board shall be charged with the duty of administering financial assistance to needy individuals who are blind in the manner hereinafter provided.

SEC. 8. *Eligibility for Assistance.* Assistance shall be granted under this act to an applicant:

- (a) Who is twenty-one years of age or over; or who has reached his sixteenth birthday and is found not to be acceptable for education at the State School for the Blind;

(b) Who has no vision or whose vision, with correcting glasses, is so defective as to prevent the performance of ordinary activities for which eyesight is essential;

(c) Who is unable to provide himself with the necessities of life, has insufficient means of his own to support him, and whose total income and resources are less than \$900 per year;

(d) Who has resided in this state for five years during the nine years immediately preceding the date of application, or who suffered loss of sight while a resident of this state and has resided continuously in this state since such loss of sight; and who has resided in this state continuously for one year immediately preceding the date of application; and

(e) Who is not an inmate of any public institution: *Provided*, That an inmate of a public institution may make application while in such institution but the assistance if granted shall not be paid until after he ceases to be such an inmate; and

(f) Who is not, at the time of making application, suffering from mental or physical infirmity, which, in itself, would make him a charge upon any public institution or other public agency; and

(g) Who is not publicly soliciting alms in any part of this state. The term "publicly soliciting" shall be construed to mean the wearing, carrying, or exhibiting of signs denoting blindness and the carrying of receptacles for the reception of alms, or the doing of the same by proxy, or by begging.

SEC. 9. *Application.* Any person claiming benefit under this act shall file an application with the local administrative board in the county of residence. The local administrative board shall fully establish the facts set forth in the application and any other facts it deems necessary. An examination of the applicant's eyes by an ophthalmologist or physician skilled in the diseases of the eye shall be provided without charge to the applicant.

SEC. 10. If the local administrative board is satisfied that the applicant is entitled to assistance under the provisions of the act, assistance shall be granted, said assistance to be paid in monthly payments from the funds appropriated for public assistance. The amount of assistance which any person shall receive shall be determined with due regard to the resources and necessary expenditures of the individual and the conditions existing in each case and such assistance shall be, together with all other income and resources of the recipient, not less than \$40.00 per month.

On the death of a recipient of aid to the Blind, reasonable funeral expenses not to exceed one hundred dollars (\$100) shall be paid by the Department of Social Security if the estate of the deceased is insufficient to pay the same.

SEC. 11. *Guardian.* If a person receiving assistance under this act is, on the testimony of reputable witnesses, found incapable of handling such money the payment may be directed to a legally appointed guardian.

SEC. 12. *Annual Reinvestigation.* A reinvestigation of the conditions of all recipients of assistance shall be made annually or more often as deemed to be necessary, and in case the condition of a recipient is found to have changed the amount of the assistance shall be increased, modified or discontinued as the changed conditions may warrant.



SEC. 13. *Right of Appeal.* Any blind applicant for or recipient of financial assistance who is dissatisfied with the action of the Division for the Blind regarding his application for benefit under this act may appeal to the local administrative board, if not satisfied an appeal may be made to the Director of Social Security, and upon such appeal shall be granted a further hearing. Written notice shall be given of the date and place of such hearing. The opportunity shall be given to present all facts with supporting evidence which bear upon the eligibility for assistance. The claimant and the Division for the Blind shall be duly notified of the decision which shall be deemed to be the final decision, unless within ten days further appeal is initiated showing pertinent facts not filed at the time of hearing. In such instances the Director if he deems the facts to have a bearing upon the decision shall give written notice of rehearing.

SEC. 14. *Recipient of Old Age Assistance Not Eligible.* No assistance shall be given under the provision of this act to any individual for any period with respect to which he is receiving aid under chapter 182, Laws of 1935, of the State of Washington, or any acts amendatory thereof or supplemental thereto.

SEC. 15. *Fraudulent Claim a Misdemeanor.* Any person who shall knowingly or wilfully procure or attempt to procure, directly or indirectly, any allowance for assistance under this act, for or on account of a person not entitled thereto, or who shall knowingly or wilfully pay or permit to be paid any allowance to a person not entitled thereto, shall be guilty of a misdemeanor.

SEC. 16. *Recovery from a Recipient.* If at any time during the continuance of assistance the recipient thereof becomes possessed of any property or income in excess of the amount enjoyed at the time of the granting of assistance it shall be the duty of the recipient immediately to notify the local administrative office of the receipt or possession of such property or income and the local administrative board may, after investigation, either cancel the assistance or alter the amount thereof in accordance with the circumstances. Any assistance paid after the recipient has come into possession of such property or income and in excess of his need shall be recoverable by the state as a debt due to the state.

SEC. 17. *Rules and Regulations.* The Director of the Department of Social Security shall have the power to make rules and regulations and take such action as may be necessary or desirable for carrying out the provisions of this act.

SEC. 18. *Cooperation with Federal Government.* The Department of Social Security is hereby empowered and authorized to cooperate with the Federal Social Security Board, created under the Social Security Act, approved August 14, 1935, and the United States office of Education in the administration of the Sheppard-Randolph Act approved June 20, 1936, in any reasonable manner as may be necessary to qualify for Federal assistance to the needy blind in conformity with the provisions of these acts; including the making of such reports in such form and containing such information as the Federal government may from time to time require, and comply with such provisions as the Federal government may from time to time find necessary.

SEC. 19. *Division May Receive Gifts.* The Department of Social Security through its Division for the Blind is authorized to receive moneys by gifts or bequest and expend the same for any of the objects and purposes set forth under this act; and shall include in the annual report to the Director of Social Security a statement of the moneys so received and expended.

SEC. 20. *Report of Division.* The Supervisor of the Division for the Blind shall make a detailed report to the Director of Social Security within ninety days after the first of each calendar year showing all appropriations received and how the same have been expended, and covering its activities and accomplishments for the preceding year, and making recommendations therein for the further improvement of the condition of the blind and the prevention of blindness in the state.

SEC. 21. *Validity.* If any portion of this act shall be declared unconstitutional, such declaration shall not affect the validity of the remaining portions of this act, which shall remain in force as though such declaration had not been made.

SEC. 22. *Repeal.* Chapter 102, Laws of 1933, and chapter 106, Laws of 1935, and all acts or parts of acts in conflict herewith, are hereby repealed.

SEC. 23. *Effective Date.* This act is necessary for the immediate preservation of public peace, health and safety and shall take effect April 1, 1937.

Passed the Senate March 1, 1937.

Passed the House March 9, 1937.

Approved by the Governor March 15, 1937.

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## CHAPTER 162.

[S. S. B. 113.]

### UNEMPLOYMENT COMPENSATION ACT.

AN Act providing for relief from involuntary unemployment; declaring the public policy of the state; providing for contributions by employers and for an unemployment compensation fund; defining conditions of eligibility for and regulating benefits; establishing a procedure for the settlement of benefit claims and providing for court review thereof; creating the office of director and defining his powers and duties; accepting the provisions of the Wagner-Peyser Act of the Congress of the United States; permitting reciprocal benefit arrangements with the states; providing penalties; making appropriations for the payment of the expenses in the administration thereof; providing for the receipt of Federal monies for the administration thereof; and for the payment of claims out of the special funds established herein and for purposes specified or to be specified in certain acts of Congress, and declaring that this act shall take effect immediately.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. This act shall be known and may be cited as the "Unemployment Compensation Act."

SEC. 2. Whereas, economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this state; involuntary unemployment is, therefore, a subject of general interest and concern which requires appropriate action by the legislature to prevent its

spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. Social security requires protection against this greatest hazard of our economic life. This can be provided only by application of the insurance principle of sharing the risks, and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing powers and limiting the serious social consequences of poor relief assistance. The State of Washington, therefore, exercising herein its police and sovereign power endeavors by this act to remedy the widespread unemployment situation which now exists and to set up safeguards to prevent its recurrence in years to come. The legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own, and that this act shall be liberally construed for the purpose of reducing involuntary unemployment and the suffering caused thereby to the minimum.

SEC. 3. (a) *Payment of Benefits.*—Twenty-four months after the date when contributions first accrue under this act, benefits shall become payable from the fund. All benefits shall be paid through employment offices in accordance with such regulations as the director may prescribe.

(b) *Weekly Benefit Amount for Total Unemployment.*—Each eligible individual who is totally unemployed in any week shall be paid with respect to such week, benefits at the rate of fifty per centum of his full time weekly wages but not more than \$15.00 per week, nor less than either \$7.00 or three-fourths ( $\frac{3}{4}$ ) of his full time weekly wage, whichever is the lesser.

(c) *Weekly Benefit for Partial Unemployment.*—Each eligible individual who is partially unemployed in any week shall be paid with respect to such week a partial benefit. Such partial benefit shall be an amount equal to the difference between this weekly benefit amount and five-sixths ( $\frac{5}{6}$ ) of all remuneration (as limited by section 19 (k) ) earned by him for such week.

(d) *Benefits in Seasonal and Irregular Employment.*

(1) As used in this section the term "seasonal industry" means an occupation or industry in which because of the seasonal nature thereof it is customary to operate only during a regularly recurring period or periods of less than forty-five weeks in a calendar year. The director shall, after investigation and hearing, determine, and may thereafter from time to time redetermine, the longest seasonal period or periods during which, by the best practice of the occupation or industry in question, operations are conducted. Until such determination by the director, no occupation or industry shall be deemed seasonal.

The term "seasonal worker" means an individual who is ordinarily engaged in a seasonal industry and who, during the portion or portions of the year when such industry is not in operation, is ordinarily not engaged in any other work.

(2) When the director has determined such seasonal period or periods, he shall also fix the right to benefits, the conditions required for the payment of benefits to unemployed persons in such occupation or industry, and the charge to be made against the employer's account as provided in section 7



(c), and shall modify the requirements of the right to benefits and the conditions required for the payment of benefits in such manner that the total benefits paid such persons will be in reasonable proportion to the total contributions to the fund of employers in such occupation or industry.

(e) *Determination of Full Time Weekly Wage.*—(1) The full time weekly wage of any individual means the weekly wages that such individual would receive if he were employed at the most recent wage rate earned by him for employment by an employer during the period prescribed pursuant to paragraph (3) of this subsection, and for the customary scheduled full time weekly hours prevailing for his occupation in the enterprise in which he last earned wages for employment by an employer during the same period.

(2) If the director finds that the full time weekly wage, as above defined, would be unreasonable or arbitrary or not readily determinable with respect to any individual the full time weekly wage of such individual shall be deemed to be one-thirteenth ( $1/13$ ) of his total wage for employment by employers during that quarter in which such total wages were highest during the period prescribed pursuant to paragraph (3) of this subsection.

(3) The full time weekly wage of any individual shall be determined and redetermined at such reasonable times as the director may find necessary to administer this act and may by regulation prescribe. The period hereinabove referred to shall consist of the next to the last completed calendar quarter immediately preceding the date with respect to which an individual's full time weekly wage is determined, and such of the seven immediately preceding consecutive calendar quarters as the director may by regulation prescribe.

(f) *Duration of Benefits.*—The director shall compute wage credits for each individual by crediting him with the wages earned by him for employment by employers during each quarter, or \$390.00, whichever is the lesser. Benefits paid to any eligible individual shall be charged, in the same chronological order as such wages were earned, against one-sixth ( $1/6$ ) of his wage credits which are based upon wages earned during his base period and which have not been previously charged hereunder. The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed whichever is the lesser of (1) 16 times his weekly benefit amount, and (2) one-sixth ( $1/6$ ) of such uncharged wage credits with respect to his base period.

(g) *Part Time Workers.*—(1) As used in this subsection the term "part time worker" means an individual whose normal work is in an occupation in which his services are not required for the customary scheduled full time hours prevailing in the establishment in which he is employed or who, owing to personal circumstances, does not customarily work the customary scheduled full time hours prevailing in the establishment in which he is employed.

(2) The director shall prescribe fair and reasonable general rules applicable to part time workers for determining their full time weekly wage and the total wages for employment by employers required to qualify such workers for benefits. Such rules shall, with respect to such workers, supersede any inconsistent provisions of this act, but, so far as practicable, shall secure results reasonably similar to those provided in the analogous provisions of this act.

SEC. 4. *Benefit Eligibility Conditions.*—An unemployed individual shall be eligible to receive benefits with respect to any week only if the director finds that:

(a) He has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the director may prescribe.

(b) He has made a claim for benefits in accordance with the provisions of section 6 (a) of this act.

(c) He is able to work, and is available for work.

(d) Prior to any week for which he claims benefits he has been totally unemployed for a waiting period of two weeks (and for the purposes of this subsection, two weeks of partial unemployment shall be deemed to be equivalent to one week of total unemployment). Such weeks of total or partial unemployment need not be consecutive. No week shall be counted as a week of total unemployment for the purpose of this subsection:

(1) If benefits have been paid with respect thereto;

(2) Unless the individual was eligible for benefits with respect thereto in all respects except for the requirements of subsections (b) and (e) of this section;

(3) Unless it occurs within the thirteen consecutive weeks preceding the week for which he claims benefits: *Provided*, That this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment: *And provided further*, That no individual shall be required to accumulate more than five waiting period weeks during five consecutive calendar quarters;

(4) Unless it occurs after benefits first could become payable to any individual under this act.

(e) He has within his base year earned wages of not less than sixteen times his weekly benefit amount: *Provided*, That if the director finds that during such base year any individual has been incapable of work because of some physical or mental disability, or has been engaged for the greater part of his working time in any week in self-employment or in performing services not subject to this act, such base year shall be extended by the duration of such incapacity, self employment or services. No such extension shall exceed fifty-two additional weeks.

SEC. 5. *Disqualification for Benefits.*—An individual shall be disqualified for benefits:

(a) For the calendar week in which he has left work voluntarily without good cause, if so found by the director, and for the two weeks which immediately follow such week (in addition to the waiting period).

(b) For the calendar week in which he has been discharged for misconduct connected with his work, if so found by the director, and for not less than the two nor more than the five weeks which immediately follow such week (in addition to the waiting period), as determined by the director in each case according to the seriousness of the misconduct.

(c) Where an individual has left work voluntarily or has been discharged for misconduct not because of any labor activity or because of membership in any *bona fide* labor organization connected with his work he shall be disqualified for benefits during the periods herein provided, until he again earns such wages that benefits will not otherwise be payable.

(d) If the director finds that he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the director, or to accept suitable work when offered him, or to return to his customary self employment (if any) when so directed by the director. Such disqualification shall continue for the calendar week in which such failure occurred and for not less than the one nor more than the five weeks which immediately follow such week (in addition to the waiting period) as determined by the director according to the circumstances in each case.

(1) In determining whether or not any such work is suitable for an individual, the director shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) if the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any *bona fide* labor organization.

(e) For any week with respect to which the director finds that his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed: *Provided*, That this subsection shall not apply if it is shown to the satisfaction of the director that:

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute: *Provided*, That if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

(f) For any week with respect to which he is receiving or has received remuneration in the form of:

(1) Remuneration in lieu of notice;

(2) Compensation for temporary partial disability under the Industrial Insurance Law of any state or under a similar law of the United States; or

(3) Old-age benefits under title II of the Social Security Act, as amended or similar payments under any Act of Congress: *Provided*, That if such remuneration is less than the benefits which would otherwise be due under this act, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration.



SEC. 6. *Claims for Benefits.*—(a) *Filing.*—Claims for benefits shall be made in accordance with such regulations as the director may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his service and shall make available to each such individual at the time he becomes unemployed, a printed statement of such regulations. Such printed statements shall be supplied by the director to each employer without cost to him.

(b) *Initial Determination and Hearing on Claim.*—A representative designated by the director and hereinafter referred to as a deputy, shall promptly examine the claim, and on the basis of the facts found by him, shall determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof. The deputy shall promptly notify the claimant, his most recent employer, and any other interested party which the director by regulation prescribes, of his decision. Unless the claimant, such employer, or any such interested party, within five calendar days after the date of notification or mailing of such decision to his last known address, files with the director a request for a hearing upon the claim, such decision shall be final and benefits shall be paid or denied in accordance therewith. When a request for a hearing upon a claim has been filed, as in this section provided, and after the deputy has afforded all parties reasonable opportunity for a fair hearing, he shall promptly affirm or modify the initial determination and shall notify all interested parties of his findings and decision with respect to the claim. Unless any such interested party, within five calendar days after the date of notification or mailing of such decision to his last known address, files with the director an appeal, such decision shall be final, and benefits shall be paid or denied in accordance therewith.

(c) *Appeals.*—Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the deputy. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision on the claim, unless within ten days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection (e) of this section.

(d) *Appeal Tribunals.*—To hear and decide disputed claims, the governor shall establish one or more impartial appeal tribunals consisting in each case of either a salaried examiner or a body consisting of three members, one of whom shall be a salaried examiner, who shall serve as chairman, one of whom shall be a representative of employers and the other of whom shall be a representative of employees; each of the latter two members shall serve at the pleasure of the governor and be paid a fee of not more than \$10.00 per day of active service on such tribunal, plus necessary expenses. No person shall hear or decide any disputed claim in any case in which he is an interested party. The director may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal. The chairman shall act alone in the absence or disqualification of any other member and his alternates. In no case shall the hearings proceed unless the chairman of the appeal tribunal is present.

(e) *Review.*—The director may on his own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence

previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeal. The director shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and by the deputy whose decision has been overruled or modified by an appeal tribunal. The director may transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal.

(f) *Procedure*.—The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with regulations prescribed by the director for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(g) *Witness Fees*.—Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the director. Such fees and all expenses of proceedings involving disputed claims excepting charges for services rendered by counsel or other agent representing the claimant, employer or other interested party shall be deemed a part of the expenses of administering this act.

(h) *Appeal to Courts*.—Any decision of the director or appeal tribunal in the absence of an appeal therefrom as herein provided shall become final thirty days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies as provided in subsections (c), (d), and (e) of this section. The director shall be deemed to be a party to any judicial action involving any such decision, and shall be represented in any such judicial action by the attorney general.

(i) *Court Review*.—Within thirty days after the final decision has been communicated to such applicant, such applicant may appeal to the superior court of the county of his residence, and such appeal shall be heard as a case in equity but upon such appeal only such issues of law may be raised as were properly included in his application before the appeal tribunal. The proceedings of every such appeal shall be informal and summary, but full opportunity to be heard upon the issues of law shall be had before judgment is pronounced. Such appeal shall be perfected by filing with the clerk of the court a notice of appeal and by serving a copy thereof by mail or personally on the director, and the filing and service of said notice of appeal within thirty days shall be jurisdictional. The director shall within twenty days after receipt of such notice of appeal serve and file his notice of appearance upon appellant or his attorney of record, and such appeal shall thereupon be deemed at issue. No bond shall be required on such appeal or on appeals to the superior or the supreme courts. When a notice of final decision has been placed in the United States mail properly addressed, it shall be considered *prima facie* evidence of communication to the applicant and his attorney, if of record.

The director shall serve upon the appellant and file with the clerk of the court before trial a certified copy of his complete record of the claim which

shall upon being so filed become a part of the record in such case. No fee of any kind shall be charged the director for filing his appearance or for any other services performed by the clerk of either the superior or the supreme court.

If the court shall determine that the director has acted within his power and has correctly construed the law, the decision of the director shall be confirmed; otherwise, it shall be reversed or modified. In case of a modification or reversal the superior court shall refer the same to the director with an order directing him to proceed in accordance with the findings of the court: *Provided*, That any award shall be in accordance with the schedule of unemployment benefits set forth in this act.

It shall be unlawful for any attorney engaged in any such appeal to the courts as provided herein to charge or receive any fee therein in excess of a reasonable fee to be fixed by the courts in the case, and if the decision of the director shall be reversed or modified, such fee and the fees of witnesses and the costs shall be payable out of the Unemployment Compensation Administration Fund. In other respects the practice in civil cases shall apply. Appeal shall lie from the judgment of the superior court to the supreme court as in other civil cases. In all court proceedings under or pursuant to this act the decision of the director shall be *prima facie* correct, and the burden of proof shall be upon the party attacking the same.

Whenever any appeal is taken from any decision of the director to any court, all expenses and costs incurred therein by said director including court reporter costs and attorney's fees and all cost taxed against such director shall be paid out of the Unemployment Compensation Administration Fund.

## CONTRIBUTIONS.

### SEC. 7. (a) *Payment.*—

(1) On and after January 1, 1937, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages payable for employment (as defined in section 19 (g)) occurring during such calendar year, such contributions shall become due and be paid by each employer to the treasurer for the fund in accordance with such regulation as the director may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(b) *Rate of Contribution.*—Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(1) One and eight-tenths (1.8%) per centum with respect to employment during the calendar year 1937;

(2) Two and seven-tenths (2.7%) per centum with respect to employment during the calendar years, 1938, 1939, 1940, 1941;

(3) With respect to employment after December 31, 1941, the percentage determined pursuant to subsection (c) of this section.

### (c) *Future Rates Based on Benefit Experience.*—

(1) The director shall maintain a separate account for each employer, and shall credit his account with all the contributions paid on his own behalf



in excess of one per centum of his annual pay roll for each calendar year. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid to an eligible individual shall be charged, in the amount hereinafter provided, against the account of his most recent employer, except that if such individual had not earned within the completed calendar quarter and the expired portion of the uncompleted calendar quarter immediately preceding the first week of any continuous period of unemployment, wages for employment by such most recent employer equal to more than sixteen times his weekly benefit amount, such benefits may also be charged against the account of his next most recent employer, in the inverse chronological order in which the employment of such individual occurred. The maximum amount so charged against the account of any employer shall not exceed one-sixth ( $1/6$ ) of the wages payable to such individual by each such employer for employment which occurs on and after the first day of such individual's base period, or \$65.00 per completed calendar quarter or portion thereof, whichever is the lesser; but nothing in this section shall be construed to limit benefits payable pursuant to section 3 of this act. The director shall by general rules prescribe the manner in which benefits shall be charged against the accounts of several employers for whom an individual performed employment at the same time.

(2) The director may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(3) The director shall, for the period of twelve months commencing January 1, 1942, and for each calendar year thereafter, classify employers in accordance with their actual contributions and benefit experience and shall determine for each employer the rate of contribution which shall apply to him throughout the calendar year in order to reflect said experience and classification. In making such classification, the director shall take account of the degree of unemployment hazard shown by each employer's experience, and of any other measurable factors which he finds bear a reasonable relation to the purposes of this subsection. He may apply such form of classification or rating system which in his judgment is best calculated to rate individually and most equitably the employment risk for each employer and to encourage the stabilization of employment. The general basis of classification proposed to be used for any calendar year shall be subject to fair notice, opportunity for hearing, and publication. The rates for any calendar year shall be so fixed that they would, if applied to all employers and their annual pay rolls of the preceding calendar year, have yielded total contributions equaling approximately two and seven-tenths (2.7%) per centum of the total of all such annual pay rolls. The director shall determine the contribution rate applicable to each employer for any calendar year subject to the following limitations:

(I) Each employer's rate shall be two and seven-tenths (2.7%) per centum, except as otherwise provided in the following provisions. No employer's rate shall be less than two and seven-tenths (2.7%) per centum

unless and until there shall have been three (3) calendar years throughout which any individual in his employ could have received benefits if eligible.

(II) No employer's contribution rate shall be less than nine-tenths of 1 per centum (.09%).

**SEC. 8. Period, Election, and Termination of Employer's Coverage.**—(a) Any employing unit which is or becomes an employer subject to this act within any calendar year shall be subject to this act during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employing unit shall cease to be an employer subject to this act only as of the 1st day of January of any calendar year, if it files with the director prior to the 5th day of January of such year, a written application for termination of coverage, and he finds that there were no twenty different weeks within the preceding calendar year, within which such employing unit employed one or more individuals in employment subject to this act. For the purpose of this subsection, the two or more employing units mentioned in paragraph (2) or (3) or (4) of section 19 (f) shall be treated as a single employing unit.

(c) (1) An employing unit, not otherwise subject to this act, which files with the director its written election to become an employer subject hereto for not less than two calendar years, shall, with the written approval of such election by the director, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such 1st day of January, it has filed with the director a written notice to that effect.

(2) Any employing unit for which services that do not constitute employment as defined in this act are performed, may file with the director a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this act for not less than two calendar years. Upon the written approval of such election by the director, such services shall be deemed to constitute employment subject to this act from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such 1st day of January such employing unit has filed with the director a written notice to that effect.

**SEC. 9. Unemployment Compensation Fund.**—(a) *Establishment and Control.*—There is hereby established as a special fund, separate and apart from all public moneys or funds of this state, an unemployment compensation fund, which shall be administered by the director exclusively for the purposes of this act, and to which section 5501 of Remington's Revised Statutes shall not be applicable.

This fund shall consist of (1) all contributions collected under this act, together with any interest thereon collected pursuant to section 14 of this act; (2) all fines and penalties collected pursuant to the provisions of this act; (3) interest earned upon any moneys in the fund; (4) any property or securities acquired through the use of moneys belonging to the fund; and

(5) all earnings of such property or securities. All money in the fund shall be mingled and undivided.

(b) *Accounts and Deposit.*—The director shall designate a treasurer and custodian of the fund who shall administer such fund in accordance with the directions of the director and shall issue his warrants upon it in accordance with such regulations as the director shall prescribe. He shall maintain within the fund three separate accounts: (1) A clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the director, shall be forwarded to the treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to section 14 of this act may be paid from the clearing account upon warrants issued by the treasurer under the direction of the director. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund. Moneys in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the director, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount fixed by the State Administrative Board and in a form prescribed by law or approved by the attorney general. Premiums for said bond shall be paid from the administration fund.

(c) *Withdrawals.*—Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the director. The director shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to its account therein, as he deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account and shall issue his warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody, and section 5501 of Remington's Revised Statutes shall not apply. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the countersignature of the director or his duly authorized agent for that purpose. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the director, shall be redeposited with the Secretary of the Treasury of the United States



of America, to the credit of this state's account in the unemployment trust fund, as provided in subsection (b) of this section.

(d) *Management of Funds Upon Discontinuance of Unemployment Trust Fund.*—The provisions of subsections (a), (b), and (c) to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this state a separate book account of all funds deposited therein for this state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the director, in accordance with the provisions of this act: *Provided*, That such moneys shall be invested in the following readily marketable classes of securities: Bonds or other interest bearing obligations of the United States of America: *And provided further*, That such investment shall at all times be made so that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the director.

#### UNEMPLOYMENT COMPENSATION DIVISION.

SEC. 10. *Organization.*—There is hereby created in the Department of Social Security two co-ordinate divisions to be known as (a) the Unemployment Compensation Division, which shall be administered by a full time salaried supervisor, and (b) the Washington State Employment Service Division; each of which shall be under a supervisor who shall be an assistant to the director of the department and shall be appointed by him. Each division shall be responsible to the director for the dispatch of its distinctive functions. Each division shall be a separate administrative unit with respect to personnel, budget and duties, except in so far as the director may find that such separation is impracticable. The director is authorized to appoint, fix the compensation of, and prescribe the duties of the staff of the Washington State Unemployment Compensation Division: *Provided*, That such appointments shall be made on a non-partisan merit basis, and to appoint, fix the compensation of and prescribe the duties of the staff of the Washington State Employment Service Division in accordance with the provisions of section 12 of this act.

#### ADMINISTRATION.

SEC. 11. (a) *Duties and Powers of Director.*—It shall be the duty of the director to administer this act; and he shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as he deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this act, which the director shall pre-

scribe. The director shall determine the organization and methods of procedure of the division in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. Not later than the 1st day of February of each year, he shall submit to the governor a report covering the administration and operation of this act during the preceding calendar year and shall make such recommendations for amendments to this act as he deems proper. Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the director in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the director believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

(b) *Reciprocal State Arrangements.*—The director is hereby authorized to enter into arrangements with the appropriate agencies of other states or the Federal government whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the Federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which he finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund. The director is also authorized to enter into reciprocal agreements with the appropriate agencies of other states or the Federal government adjusting the collection and payment of contributions by employers with respect to employment within and without this state.

(c) *Regulations and General and Special Rules.*—General and special rules may be adopted, amended, or rescinded by the director only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after filing with the secretary of state and publication in one or more newspapers of general circulation in this state. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the director and shall become effective in the manner and at the time prescribed by him.

(d) *Publication.*—The director shall cause to be printed for distribution to the public the text of this act, the regulations and general rules, his annual reports to the governor, and any other material which he deems relevant and suitable and shall furnish the same to any person upon application therefor.

(e) *Personnel.*—Subject to other provisions of this act, the director is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, experts, and other persons as may be necessary to carry out this act. The director may delegate to any such person so appointed such power and authority as he deems reasonable and proper for the effective administration of this act, and may in his discretion bond any person handling moneys or signing checks hereunder.

The director shall classify positions and shall establish salary schedules and minimum personnel standards for the position so classified. The director

shall not appoint or employ any person who is an officer or committee member of any political party organization or who holds or is a candidate for any elective public office.

(f) *Employment Stabilization.*—The director shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry out and publish the results of investigations and research studies.

(g) *Records and Reports.*—Each employing unit shall keep true and accurate work records, containing such information as the director may prescribe. Such records shall be open to inspection and be subject to being copied by the director or his authorized representatives at any reasonable time and as often as may be necessary. The director may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which he deems necessary for the effective administration of this act. Information thus obtained or obtained from any individual pursuant to the administration of this act shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing an individual's or employing unit's identity, but any claimant at a hearing before an appeal tribunal or the director shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee or member of the State Department of Social Security who violates any provision of this section shall be fined not less than \$20.00 nor more than \$200.00, or imprisoned for not longer than ninety days, or both.

(h) *Oaths and Witnesses.*—In the discharge of the duties imposed by this act, the chairman of an appeal tribunal and any duly authorized representative or member of the State Department of Social Security shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this act.

(i) *Subpoenas.*—In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of the state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by any duly authorized representative or member of the State Department of Social Security or the chairman of an appeal tribunal, shall have jurisdiction to issue to such person an order requiring such person to appear before such chairman, or representative or member of the State Department of Social Security, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to



produce books, papers, correspondence, memoranda, and other records, if it is in his power so to do, in obedience to a subpoena of the director shall be punished by a fine of not less than \$200.00 or by imprisonment for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(j) *Protection Against Self Incrimination.*—No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before any duly authorized representative or member of the State Department of Social Security or any appeal tribunal in obedience to the subpoena of such representative or member of the State Department of Social Security or the chairman of such appeal tribunal, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(k) *State-Federal Cooperation.*—In the administration of this act, the director shall cooperate to the fullest extent consistent with the provisions of this act, with the Social Security Board, created by Social Security Act, approved August 14, 1935, as amended; shall make such reports, in such form and containing such information as the Social Security Board may from time to time require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the Social Security Board governing the expenditures of such sums as may be allotted and paid to this state under title III of the Social Security Act for the purpose of assisting in the administration of this act.

Upon request therefor the director shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this act.

#### EMPLOYMENT SERVICE.

Sec. 12. (a) The Washington State Employment Service Division is hereby set up in State Department of Social Security as a division thereof, which shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this act and for the purpose of performing such duties as are within the purview of the Act of Congress entitled "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system and for other purposes," approved June 6, 1933, (48 Stat. 113; U. S. C., title 29, sec. 49 (c)), as amended. The director shall be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended, and to do and perform all things necessary to secure to this state the benefits of the said Act of Congress, as

amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said Act of Congress, as amended, are hereby accepted by this state, in conformity with section 4 of said act, and this state will observe and comply with the requirements thereof. The State Department of Social Security through the Washington State Employment Service Division is hereby designated and constituted the agency of this state for the purpose of said act. The director of the State Department of Social Security shall appoint the officers and employees of the Washington State Employment Service Division. Such appointments shall be made in accordance with regulations prescribed by the director of the United States Employment Service.

(b) *Financing*.—All moneys received by this state under the said Act of Congress, as amended, shall be paid into the special "employment service account" in the state treasury, and said moneys are hereby made available to the Washington State Employment Service Division to be expended as provided by this section and by said Act of Congress. For the purpose of establishing and maintaining free public employment offices, the director is authorized to enter into agreements with any political subdivision of this state or with any private, non-profit organization, and as a part of any such agreement the director may accept moneys, services, or quarters as a contribution to the employment service account.

#### UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND.

SEC. 13. (a) *Revolving Fund*.—There is hereby created a revolving fund to be known as the Unemployment Compensation Administration Fund. All moneys which are deposited or paid into this fund are hereby made available to the director. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this act, and for no other purpose whatsoever. The fund shall consist of all moneys received from the United States of America, of [or] any agency thereof, including the Social Security Board or for [from] any other source, for such purpose. All moneys in this fund shall be deposited, administered, and disbursed by the treasurer of the unemployment compensation fund under rules and regulations of the director and none of the provisions of section 5501 of Remington's Revised Statutes shall be applicable to this revolving fund. The treasurer last named shall be the treasurer of the Unemployment Compensation Administration Fund and shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with that fund in an amount to be fixed by the State Administrative Board and in a form prescribed by law or approved by the attorney general. The premiums for such bond and the premiums for the bond given by the treasurer of the unemployment compensation fund under section 9 of this act, shall be paid from the moneys in the Unemployment Compensation Administration Fund.

(b) *Employment Service Account*.—A special "employment service account" shall be maintained in the state treasury for the purpose of maintaining the public employment offices established pursuant to section 12 of this act and for the purpose of cooperating with the United States Employment Service. There is hereby appropriated to the employment service account from any money in the state treasury not otherwise appropriated the sum of \$400,000.00. In addition there shall be paid into such account the moneys

designated in section 12 (b) of this act, and such moneys as are appropriated for the purposes of this account from any moneys received by this state under title III of the Social Security Act, as amended.

#### COLLECTION OF CONTRIBUTIONS.

SEC. 14. (a) *Interest on Past Due Contributions.*—Contributions unpaid on the date on which they are due and payable, as prescribed by the director, shall bear interest at the rate of 1 per centum (1%) per month from and after such date until payment plus accrued interest is received by him. Interest collected pursuant to this subsection shall be paid into the unemployment compensation fund.

(b) *Collection.*—If after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the director, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this act and cases arising under the industrial insurance law of this state.

(c) *Priorities Under Legal Dissolutions or Distributions.*—In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for benefit of creditors, adjudicated insolvency compensation, or similar proceeding contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for remuneration for services of not more than \$250.00 to each claimant, earned within six months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in section 64 (b) of that act (U. S. C., title 11, section 104 (b)), as amended.

(d) *Refunds.*—If not later than four years after the date which any contributions or interest thereon become due, an employer who has paid such contributions or interest thereon shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made and the director shall determine that such contributions or interest or any portion thereof was erroneously collected, he shall allow such employer to make an adjustment thereof, without interest, in connection with subsequent contribution payments by him, or if such adjustment cannot be made the director shall refund said amount, without interest, from the fund. For like cause and within the same period, adjustment or refund may be so made on the director's own initiative.

#### PROTECTION OF RIGHTS AND BENEFITS.

SEC. 15. (a) *Waiver of Rights Void.*—Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this act shall be void. Any agreement by an individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this act from such employer, shall be void. No employer



shall directly or indirectly make or require or accept any deduction from remuneration for services to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by any individual in his employ. Any employer or officer or agent of an employer who violates any provision of this subsection shall, for each offense, be fined not less than \$100.00 nor more than \$1,000.00 or be imprisoned for not more than six months, or both.

(b) *Limitation of Fees.*—No individual claiming benefits shall be charged fees of any kind in any proceeding under this act by the director or his representatives, by any appeal tribunal or by any court or any officer thereof: *Provided, however,* The individual shall pay such fees as are legal in superior and supreme court. Any individual claiming benefits in any proceeding before the director, an appeal tribunal or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive a fee for such services, but a legally licensed attorney shall be paid such reasonable fee for his services in the superior court as the judge orders. Any person who violates any provision of this subsection shall, for each such offense, be fined not less than \$50 nor more than \$500, or imprisoned for not more than six months, or both.

(c) *No Assignment of Benefits; Exemptions.*—Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this act shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or his spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this subsection shall be void.

#### PENALTIES.

SEC. 16. (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this act, either for himself or for any other person, shall be punished by a fine of not less than \$20 nor more than \$50, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this act, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not longer than sixty days, or by both such fine and imprison-

ment; and each such false statement or representation or failure or refusal shall constitute a separate offense.

(c) Any person who shall willfully violate any provision of this act or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this act, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(d) Any person who, by reason of the nondisclosure or misrepresentation by him or by another, of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this act while any conditions for the receipt of benefits imposed by this act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall, in the discretion of the director either be liable to have such sum deducted from any future benefits payable to him under this act or shall be liable to repay to the director for the unemployment compensation fund, a sum equal to the amount so received by him, and such sum shall be collected in the manner provided in section 14 (b) of this act for the collection of past due contributions.

#### REPRESENTATION IN COURT.

SEC. 17. (a) The attorney general shall be the counsel of each and all divisions and departments under this act and it shall be his duty to institute and prosecute all actions and proceedings which may be necessary in the enforcement and carrying out of each, every, and all of the provisions of this act, and it shall be the duty of the attorney general to assign such assistants and attorneys as may be necessary to the exclusive duty of assisting each, every, and all divisions and departments created under this act in the enforcement of this act. The salaries of such assistants shall be paid out of the unemployment compensation administration fund, together with their expenses fixed by the attorney general and allowed by the treasurer of the unemployment administration fund when approved upon vouchers by the attorney general.

(b) All criminal actions for violation of any provisions of this act, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the attorney general of the state; or, at his request and under his direction, by the prosecuting attorney of any county in which the employer has a place of business or the violator resides.

#### NON-LIABILITY OF STATE.

SEC. 18. Benefits shall be deemed to be due and payable under this act only to the extent provided in this act and to the extent that moneys are available therefor to the credit of the unemployment compensation fund, and neither the state nor the director shall be liable for any amount in excess of such sums.

DEFINITIONS.

SEC. 19. As used in this act, unless the context clearly requires otherwise:

(a) "Annual payroll" means the total amount of wages payable by an employer (regardless of the time of payment) for employment during a calendar year.

(b) "Benefits" means the money payments payable to an individual, as provided in this act, with respect to his unemployment.

(c) "Director" means the administrative head of the State Department of Social Security referred to in section 10 of this act.

(d) "Contributions" means the money payments to the state unemployment compensation fund required by this act.

(e) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1937, had in its employ eight or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this act.

(f) "Employer" means:

(1) Any employing unit which in each of twenty different weeks within either the current or the preceding calendar year (whether or not such weeks are or were consecutive) has or had in employment eight or more individuals (not necessarily simultaneously and irrespective of whether the same individuals are or were employed in each such week);

(2) Any employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

(3) Any employing unit which acquired the organization, trade or business or substantially all the assets thereof, of another employing unit and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this subsection;

(5) Any employing unit, which, having become an employer under paragraph (1), (2), (3), or (4), has not, under section 8, ceased to be an employer subject to this act; or

(6) For the effective period of its election pursuant to section 8 (c) any other employing unit which has elected to become fully subject to this act.

(g) (1) "Employment," subject to the other provisions in this subsection, means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term "employment" shall include an individual's entire service



performed within or both within and without this state if: (i) The service is localized in this state; or (ii) the service is not localized in any state but some of the service is performed in this state and (a) the base of operations, or if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (b) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(3) Services not covered under paragraph (2) of this subsection, and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the Federal government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this state and the director approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

(4) Service shall be deemed to be localized within a state if:

(i) The service is performed entirely within such state; or

(ii) The service is performed both within and without such state, but the service performed without the state is incidental to the individual's service within such state, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for remuneration shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the director that:

(i) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact; and,

(ii) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed;

(iii) Such individual is customarily engaged in an independently established trade, occupation, profession or business, of the same nature as that involved in the contract of service.

(6) The term "employment" shall not include:

(i) Agricultural labor;

(ii) Domestic service in a private home;

(iii) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(iv) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(v) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(vi) Service performed in the employ of this state, or of any political subdivisions thereof, or of any instrumentality of this state or its political subdivisions;

(vii) Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions of the United States;

(viii) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress: *Provided*, That the director is hereby authorized and directed to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in section 11 (b) of this act for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this act.

(h) "Employment office" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state controlled system of public employment offices.

(i) "Fund" means the unemployment compensation fund established by this act, to which all contributions required and from which all benefits provided under this act shall be paid.

(j) "State" includes, in addition to the states of the United States of America, Alaska, Hawaii, and the District of Columbia.

(k) "Total and Partial Unemployment." (1) An individual shall be deemed "totally unemployed" in any week after January 1, 1939, during which he performs no services other than odd jobs or subsidiary work for compensation not to exceed \$3.00, and with respect to which no remuneration is payable to him.

(2) An individual shall be deemed "partially unemployed" in any week of less than full time work after January 1, 1939, if his remuneration payable for such week is less than six-fifths ( $6/5$ ) of the weekly benefit amount he would be entitled to receive if totally unemployed and eligible.

(3) As used in this subsection, the term "remuneration" shall include only that part of remuneration for odd jobs or subsidiary work, or both, which is in excess of \$3.00 in any one week.

(4) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the director may by regulation otherwise prescribe.

(l) "Unemployment Compensation Administration Fund" means the unemployment compensation administration fund established by this act, from which administrative expenses under this act shall be paid.

(m) "Wages" means remuneration payable by employers for employment. "Remuneration" means all compensation payable for personal services, including commissions and bonuses and the cash value of all compensation payable in any medium other than cash. The reasonable cash value of compensation payable in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the director.

(n) "Week" means any period of seven consecutive calendar days ending at midnight.

(o) "Weekly Benefit Amount." An individual's weekly benefit amount means the amount of benefits he would be entitled to receive for one week of total unemployment.

(p) "Benefit Year," with respect to any individual means the fifty-two consecutive week period beginning with the first day of the week with respect to which benefits are first payable to him, and thereafter, the fifty-two consecutive week period beginning with the first day of the first week with respect to which benefits are next payable to him after the termination of his last preceding benefit year.

(q) "Base Period" means the period beginning with the first day of the non-<sup>①</sup> [nine] completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding any week with respect to which benefits are payable.

(r) "Calendar Quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1938, or the equivalent thereof as the commission may by regulation prescribe.

#### SAVING CLAUSE.

SEC. 20. The legislature reserves the right to amend or repeal all or any part of this act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this act or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this act at any time.

#### SEPARABILITY OF PROVISIONS.

SEC. 21. If any provisions of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 22. If the Congress of the United States, by amendatory legislation, extends the application of its Social Security Act of August 14, 1935, to include employers who are not now embraced under or covered by the said Act of Congress, then and in that event, the provisions of this act shall be deemed amended to conform with the changes as enacted by Congress and approved by the President of the United States with respect to the scope and application of the said Act of Congress of August 14, 1935, and, upon any such change being made, the governor, when advised of the approval thereof by the President, shall immediately by official proclamation declare the germane provision or provisions of this act amended in conformity with the change or changes as so made in the Social Security Act and such

<sup>①</sup> The word "non" is a mistake in the original drafting of the bill. This phrase should read "nine completed quarters." This error will be called to the attention of the 1939 Legislature for correction.



amendment or amendments shall be operative from the date of the governor's proclamation.

In the event that this section should be declared unconstitutional or invalid by a court of last resort, such adjudication shall not in any wise impair, affect or invalidate any other section, part or provision of this act, and the remainder of the act shall be given the same effect as if this section had never been enacted.

SEC. 23. If the tax imposed by Title IX of the Federal Social Security Act or any amendments thereto, or any other Federal tax against which contributions under this act may be credited shall, for any cause become inoperative, with the result that no portion of the contributions required under this act may be credited against such Federal tax, then this act by virtue of that fact, shall be suspended until the legislature shall meet and take action relative thereto, and any unobligated funds in the unemployment compensation fund, and returned by the United States Treasurer because such Federal Social Security Act is inoperative, shall be held in custody by the state treasurer and under supervision of the commission until the legislature shall provide for the disposition thereof.

#### EFFECTIVE DATE.

SEC. 24. This act is necessary for the immediate preservation of the public peace, health and safety, and shall take effect immediately.

Passed the Senate March 1, 1937.

Passed the House March 8, 1937.

Approved by the Governor March 16, 1937.

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#### OLD AGE ASSISTANCE.

(H. B. 582—1935. H. B. 481—1937.)

#### Chapter 182, Laws of 1935, as amended by Chapter 156, Laws of 1937.

AN Act relating to and providing for old age assistance; defining the powers and duties of certain officers in connection therewith; prescribing penalties; appropriating funds for such assistance; repealing chapter 29, Laws of 1933, abolishing county old age pension fund, amending section 9, chapter 55, Laws of 1933, and declaring its effective dates.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. The care of aged persons who are in need or whose physical or other condition seems to render permanent their inability to provide properly for themselves is hereby declared to be a matter of state concern and a necessity in promoting and preserving the public health and welfare. To provide such care a statewide system of old-age assistance is hereby established.

SEC. 2. Subject to the provisions of this act, every person residing in the State of Washington, if in need, shall be entitled to old-age assistance from the state.

SEC. 3. Old-age assistance shall be given under this act to any person who

(a) Has attained the age of 65 years: *Provided*, That if the Federal government provides for Federal contribution to state old-age assistance payable to persons of age less than 65 years, then and in that event persons shall be entitled to assistance hereunder at such age as shall be provided in said Federal act;

(b) Has income which is less than three hundred sixty dollars (\$360) per year;

(c) Has been a resident of the State of Washington for at least five years within the ten years immediately preceding his application for old-age assistance;

(d) Is not at the time an inmate of a public institution of a custodial, correctional, or curative character, except in the case of temporary medical or surgical care in a hospital;

(e) Has not made a voluntary assignment or transfer of property for the purpose of qualifying for such assistance;

(f) Is not because of his physical or mental condition in need of continued institutional care.

Sec. 4. It shall be the duty of the Department of Social Security to provide adequately for those eligible for old-age assistance under the provisions of this act. The amount and nature of old-age assistance which any such person shall receive, and the manner of providing it, shall be determined by the said department with due regard to the conditions existing in each case; but such assistance together with the applicant's own resources and income shall not be less than the sum of thirty dollars (\$30) per month to each recipient: *Provided*, That in the event Federal participation shall be granted in excess of fifteen dollars (\$15) a month per recipient, the maximum may be increased to twice the amount that may be recovered for each recipient from Federal sources. The old-age assistance may include, among other things, medical and surgical and hospital care and nursing.

Sec. 5. A person requesting old-age assistance under this act shall make his application therefor to the Department of Social Security. An inmate of any public institution of a correctional, custodial, or curative character may make an application while in such home or institution, but the assistance, if granted, shall not be paid until after he ceases to be such an inmate. The person requesting an old-age assistance grant may apply in person, or the application may be made by another in his behalf. The application shall be made in writing or reduced to writing, upon standard forms, prescribed and furnished by the Department of Social Security.

Sec. 6. The Department of Social Security is hereby authorized to and shall make rules and regulations necessary for the carrying out of the provisions of this act to the end that old-age assistance may be administered uniformly throughout the state, having regard for the varying costs of living in different parts of the state and that the spirit and purpose of this act may be complied with.

Sec. 7. Whenever the Department of Social Security receives an application for an old-age assistance grant, an investigation and record shall be promptly made of the circumstances of the applicant. The object of such investigation shall be to ascertain the facts supporting the application made under this act and such other information as may be required by the rules

of the department. The department shall have the power to issue subpoenas for witnesses and compel their attendance and the production of papers and writings and may examine witnesses under oath.

SEC. 8. Upon the completion of its investigation, the Department of Social Security shall decide whether the applicant is eligible for and should receive an old-age assistance grant under this act, the amount of the assistance, the manner of paying or providing it and the date on which the assistance shall begin. The department may make such additional investigation as it may deem necessary, and shall make its decision as to the granting of assistance and the amount and nature of assistance to be granted the applicant as in its opinion is justified and in conformity with the provisions of this act. The department shall notify the applicant of its decision in writing. Such decision shall be subject to a fair hearing, which hearing under the provisions of this section, unless appellant shall otherwise stipulate, shall be held in the county in which the appellant resides and shall be conducted by the director of the Department of Social Security, a duly appointed, qualified and acting supervisor thereof, or by an examiner specially appointed by the director for such purpose. Whenever a hearing is conducted by a supervisor or specially appointed examiner, a transcript of the testimony shall be made and included in the record which shall be submitted to the director for his decision.

Any appellant, feeling himself aggrieved by the decision of the director in any case, shall have the right of appeal to the superior court of the county of his legal residence, which appeal shall be taken by notice filed with the clerk of the court and served upon the director within thirty (30) days after the decision of the director.

SEC. 9. No person receiving old-age assistance grant under this act shall at the same time receive any other relief from the state, or from any political subdivision thereof, except for medical and surgical and hospital care and nursing assistance.

SEC. 10. If the person receiving the old-age assistance is, on the testimony of reputable witnesses, found incapable of taking care of himself or his money, the director of social security may direct the payment of the installments of the old-age assistance to any responsible person or corporation for his benefit.

SEC. 11. On the death of a recipient of old-age assistance, reasonable funeral expenses not exceeding one hundred dollars (\$100) shall be paid by the department of social security if the estate of the deceased is insufficient to pay the same.

SEC. 12. If a recipient is convicted of any crime or offense, and punished by imprisonment, no payment shall be made during the period of imprisonment. In such cases, the assistance may be declared forfeited in the discretion of the department. The department may suspend temporarily the assistance granted to any person for any period during which such person is not in need thereof.

SEC. 13. If, at any time during the continuance of old-age assistance, the recipient thereof or the husband or wife of the recipient, becomes possessed of any property or income in excess of the amount enjoyed at the



time of the granting of the assistance, it shall be the duty of the recipient immediately to notify the department of the receipt and possession of such property or income, and the department may, on inquiry, either cancel the assistance or vary the amount thereof in accordance with circumstances, and any excess assistance theretofore paid shall be returned to the state and be recoverable as a debt due the state.

SEC. 14. If at any time the department has reason to believe, by reason of a complaint or otherwise, that old-age assistance allowance has been improperly granted, it shall cause an investigation to be made and if it appears as a result of any such investigation that the assistance was improperly granted, the department shall immediately cause all further payments under any such allowance to cease.

SEC. 15. All assistance grants under this act shall be reconsidered from time to time, or as frequently as may be required by the rules of the department. After such further investigation as may be deemed necessary, the amount and manner of giving the assistance may be changed or the assistance may be withdrawn if the department finds that the recipient's circumstances have changed sufficiently to warrant such action. It shall be within the power of the department at any time to cancel and revoke assistance for cause, and it may for cause suspend payments for assistance for such periods as it may deem proper.

SEC. 16. The Department of Social Security is hereby authorized and directed to make such reports and in such detail as may be required of it to the Federal government. Within ninety (90) days after the close of each calendar year, the department shall make a report to the governor for the preceding year, stating (a) the total number recipients, (b) the amount paid in cash, (c) the total number of applications, (d) the number granted, (e) the number denied, (f) the number canceled during the year, and (g) such other information as may be deemed advisable.

SEC. 17. All assistance given under this act shall be inalienable by any assignment or transfer and shall be exempt from levy or execution under the laws of this state.

SEC. 18. \* \* \*

SEC. 19. \* \* \*

SEC. 20. Any person who by means of a wilfully false statement or representation, or by impersonation, or other fraudulent device, obtains, or attempts to obtain, or aids or abets any person to obtain:

- (a) Assistance to which he is not entitled;
- (b) Greater assistance than that to which he is justly entitled;
- (c) Payment of any forfeited installment grant;

(d) Or aids or abets in buying or in any way disposing of the property of the recipient of assistance without the consent of the director of social security shall be guilty of a misdemeanor.

SEC. 21. All assistance granted under this act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing act that may thereafter be enacted, and no recipient shall have any claim for compensation, or otherwise, by reason of his assistance being affected in any way by such amending or repealing act.

SEC. 22. A person 65 years of age or more not receiving old-age assistance under this act shall not by reason of his age be debarred from receiving other public relief and care.

SEC. 23. The Department of Social Security for the purpose of administration, shall have power to establish such branch offices and/or appoint such subordinate officer, agencies or employees throughout the state as may be reasonably necessary to carry out the purposes of this act expeditiously and with a minimum of delay to applicants for assistance.

SEC. 24. All old-age assistance grants under this act shall be a charge against and payable out of the general fund of the state. Payment thereof shall be by warrant of the state auditor to be drawn upon vouchers duly prepared and verified by the director of social security.

SEC. 25. Any moneys which may be received by the State of Washington from the Federal government as aid in defraying the cost of old-age assistance under this act shall be deposited in the state treasury to the credit of the general fund but separate accounts shall be kept in order that the state may make such reports and render such accounting as may be required by the appropriate Federal authority.

SEC. 26. The state hereby accepts the provisions of that certain act of the Congress of the United States entitled, An act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several states to make more adequate provisions for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, and such other act with like or similar objects as may be enacted.

SEC. 27. Whenever in this act the masculine pronoun is used it shall, in proper cases, be held to include the feminine.

SEC. 28. In order to effectuate and carry out the purposes of this act, there is hereby appropriated out of the general fund of the state, for the biennium ending March 31, 1937, the sum of ten million dollars (\$10,000,000), or as much thereof as shall be found necessary: *Provided*, That the cost of administration of the act shall not exceed five (5) per cent of the total amount expended for all purposes under its provisions.

SEC. 29. Chapter 29, Laws of 1933, is hereby repealed and no rights or privileges which may have been granted to any individual under said act shall be deemed continued by this act. Each county auditor shall, upon the taking effect of this act, immediately transmit to the department of public welfare all such records in his possession, or in possession of the board of county commissioners, as bear upon the eligibility of persons to assistance under the provisions of this act.

SEC. 30. That section 9, chapter 55 of the Laws of 1933 be amended to read as follows:

Section 9. In addition to the license fees required by this act, the licensee shall pay to the racing commission five (5) per centum of the gross receipts of all pari-mutuel machines at each race meet, which sums shall be paid daily to the racing commission. All sums paid to the commission, together

with all sums collected for license fees under the provisions of this act, shall be disposed of by the commission as follows: Twenty (20) per centum thereof shall be paid to and retained by the commission for the payment of salary of its members; of its secretary, and the salaries of all other clerical, office, and other help employed by the commission, together with all expenses in connection with the carrying out of the provisions of this act, except that no payment need be made for office accommodation furnished by the state:

*Provided, however,* That no salary, wages, expenses or compensation of any kind shall be paid by the State of Washington for, or in connection with the work of the commission in carrying out the provisions of this act; and the remaining eighty (80) per centum of all sums collected by the commission shall, on the next business day following the receipt thereof, be paid to the state treasurer, and by him placed in the general fund of the state treasury. Any moneys collected or paid to the commission under the terms of this act, and not expended by the commission as herein provided, at the time of making its report to the legislature, shall be paid to the state treasurer and be placed in the general fund of the state treasury.

SEC. 31. The county old-age pension fund is hereby abolished as of July 1, 1935. After the payment of all claims outstanding as of said date, which are a proper charge against such fund, the balance, if any remaining in the county old-age pension fund in each county of the state shall by the proper county officers be paid over and transferred to the current expense fund of said county.

SEC. 32. If any portion, section or clause of this act shall for any reason be declared invalid or unconstitutional such adjudication shall not affect the remainder of the act.

SEC. 33. This act is necessary for the preservation of the public peace, health and safety, support of the state government and its existing public institutions and shall take effect April 1, 1935: *Provided, however,* That no payments of old-age assistance shall be made under this act, and the repeal of chapter 29, Laws of 1933 and the amendment of section 9, chapter 55, of the Laws of 1933 shall not become effective, until after July 1, 1935.



## CHAPTER 172

## Session Laws of 1933

[H. B. 209]

(Powers and duties conferred by this law are assigned to the Division of Child Welfare in the Department of Public Welfare by Sec. 8 (1), Ch. 176, Session Laws of 1935.)

AN ACT creating the State Department of Social Security and several divisions thereof, providing for the appointment of officers to administer such department and divisions and prescribing their powers and duties, abolishing the Department of Public Welfare and divisions thereof, providing for a transfer of property and business of such department to the Department of Social Security and declaring that the act shall take effect April 1, 1937.

*Be it enacted by the Legislature of the State of Washington:*

Section 1. There is hereby created a department of the state government which shall be known as the department of social security. The chief executive officer thereof, who shall be designated the director of social security, shall be appointed by the governor, with the consent of the Senate, and shall hold office at the pleasure of the governor. If the Senate be not in session, when this act takes effect or if a vacancy occur while the Senate is not in session, the governor shall make a temporary appointment until the next meeting of the Senate, when he shall present to the Senate his nomination for the office.

Sec. 2. The department of social security shall be organized into and consist of six divisions to be designated, respectively, (1) the division of public assistance, (2) the division of old-age pensions, (3) the division of unemployment compensation, (4) the division of employment service, (5) the division for children and, (6) the division for the blind.

Sec. 10. The director of social security shall have the power and it shall be his duty, through and by means of the division for children:

(1) To exercise all the powers and perform all the duties now vested in, and required to be performed by, the division of child welfare of the department of public welfare.

(2) To exercise such other powers and perform such other duties as may be prescribed by law.

The powers and duties heretofore conferred on the State Department of Public Welfare and on the Department of Business Control are now conferred on the division for children under section 10, chapter 111, of the Laws of 1937, and those powers are as follows:

(1) To examine and approve all articles of incorporation for agencies, societies, associations, or institutions organized for the rescue and temporary care of dependent and delinquent children and for the placement of such children in family homes or in special institutions, or established as orphanages and homes to provide temporary or continued care for such children; and no certificate of incorporation or amendment of articles of existing corporations shall hereafter be issued to any such associations or institutions organized for such work except upon the filing with the secretary of state of a certificate of approval, issued by the director of social security. Such certificate shall be issued by said director upon reasonable and satisfactory assurance upon the following points:

- (a) The good character and intentions of the applicant;
  - (b) The present and prospective need of the service intended by the proposed organization, with no unnecessary duplication of approved existing service;
  - (c) Provision for employment of capable, trained or experienced workers;
  - (d) Sufficient financial backing to insure effective work;
  - (e) The probability of permanence in the proposed organization or institution;
  - (f) That the methods used and the disposition made of the children will be in their best interests and that of society;
  - (g) Articles of incorporation and related by-laws;
  - (h) That in the judgment of the director the establishment of such an organization is necessary and desirable for the public welfare.
- (2) To inspect and supervise and to provide rules and regulations for the operation and government of all child caring agencies, societies, associations, institutions, or persons, whether incorporated or not, within the state.
- (3) To issue certificates of approval annually to all such agencies, societies, associations, institutions or persons, whether now existing or hereafter organized, and whether incorporated or not.
- (4) To require regular reports on forms to be provided by him, from all such agencies, societies, associations, institutions or persons at least annually, and oftener in his discretion, concerning their operation and management.
- (5) To suspend or revoke any certificate issued hereunder upon satisfactory evidence that the holder thereof, in his discretion, has failed or refused to comply with the provisions of this act or to furnish proper care or treatment for the children under its control: *Provided*, That before any such certificate is suspended or revoked, the director of social security shall notify the agency, society, association, institution or person, to whom such permit has been granted, that such action is contemplated, and the reason or grounds therefor. And such agency, society, association, institution or person shall have, upon being advised, ten (10) days within which to submit evidence to show why such action should not be taken. In the event any such agency, society, association, institution or person shall feel aggrieved at any decision or order of the director of social security relative to the refusal to issue, or to the suspension or revocation of, the certificate of approval herein provided for, it may, within fifteen (15) days, file its notice of appeal from such decision or order in the superior court of Thurston county, Washington, together with a statement of the grounds of its appeal, and the court shall proceed summarily to hear and determine the questions raised by such appeal and enter such order therein as to the court may seem meet and proper. Either party shall have the right of appeal from such judgment and decision to the supreme court of the State of Washington, the practice and procedure in appeals in civil cases to govern in such appeals.

Sec. 4. All agencies, societies, associations, institutions, or persons now engaged in caring for children or children and adults, or placing children for care, within this state, shall report to said division and shall be subject to all the provisions of this act, except as to incorporation, and no agency, society, association, institution or person shall hereafter carry on the work

of caring for children or children and adults, or of placing children for care, without first procuring the certificate of approval provided for herein, and complying with the provisions thereof.

Sec. 5. Any agency, society, association, institution or person, whether incorporated or unincorporated, and the individual or individuals acting for or in its name, who shall hereafter carry on the work of caring for children, or children and adults, or of placing children for care, without a certificate of approval from the director of social security, or who shall wilfully fail or refuse to report as required by said director, or shall wilfully obstruct or hinder him or his agents in inspection or investigation of the agencies, societies, associations, institutions, or persons under their control or charge, shall be guilty of a misdemeanor.

Sec. 6. All files, reports, documents and information pertaining to a neglected, dependent, or delinquent child or children required by the director of social security to be furnished by any of the agencies, societies, associations, institutions or persons, pursuant to this act, shall be deemed confidential and privileged and no disclosure thereof shall be made except where required by order or process of the superior court of Thurston county in any suit therein pending: *Provided*, That all records and information of any agency, society, association, institution or person with respect to any neglected, dependent or delinquent child shall be the property of the said agency, society, association, institution or person and when furnished to the director of social security, in pursuance to this act, shall, as soon as they have served their purpose, be returnable to such agency, society, association, institution or person for permanent record: *Provided, further*, That at any hearing held pursuant to this act either by the director of social security or by the superior court of Thurston county, the general public shall be excluded from the room where the hearing is had, admitting thereto only such persons as may have a direct interest in the case. The records or the agency, society, association, institution or person concerned and the records of any neglected, dependent or delinquent child or children concerned, shall be confidential and privileged, but such records shall be open to the inspection of the child, its parents, guardian or its attorney, and to such other persons as may secure a special order of the court therefor. Such records shall be kept as unofficial records of the department or the court pending the proceedings, and at the conclusion of the same shall be returned to the agency, society, association, institution or person from which they originated.

Sec. 7. *Definitions*. The term "agency" or "child welfare agency," as used herein, is defined as any person, firm, association or corporation, and any private institution which receives for control, care and maintenance more than two (2) children under eighteen (18) years of age, but not counting, in the case of an individual, children related to such persons or under guardianship. This term shall not apply to any boarding school which is essentially and primarily engaged in educational work.

The term "neglected," "dependent" and "delinquent" children shall be construed in the common and accepted sense given them in ordinary usage, including the definitions set forth in the juvenile court act of this state.

Sec. 8. Sections 2, 3, 4, 5, 6 and 7 of this act shall be numbered and designated as sections 44a, 44b, 44c, 44d, 44e, and 44f, respectively of chapter 7 of the Session Laws of 1921.





HD7091 Washington State Laws, c. 1  
W277 Statutes, etc.  
1937

HD7091  
W277 c. 1  
1937 Washington (State) Laws,  
AUTHOR  
Statutes, etc.

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